

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-7333

CHARLES ALONZO TUNSTALL,

Plaintiff - Appellant,

versus

MARY SOMERVILLE; CHARLES ELLIS; BARBARA
WATSON; DELORES WILSON; MARGARET BRANT;
CECILIA RICHARDSON; DEBORAH JORDAN,

Defendants - Appellees.

No. 97-6470

CHARLES ALONZO TUNSTALL,

Plaintiff - Appellant,

versus

MARY SOMERVILLE; CHARLES ELLIS; BARBARA
WATSON; DELORES WILSON; MARGARET BRANT;
CECILIA RICHARDSON; DEBORAH JORDAN,

Defendants - Appellees.

Appeals from the United States District Court for the Eastern Dis-
trict of North Carolina, at Raleigh. Malcolm J. Howard, District
Judge. (CA-94-166-5-H)

No. 97-525

IN RE: CHARLES ALONZO TUNSTALL,

Petitioner.

On Petition for Writ of Mandamus. (CA-94-166-H)

Submitted: August 28, 1997

Decided: September 9, 1997

Before WILKINS, WILLIAMS, and MICHAEL, Circuit Judges.

Nos. 96-7333 and 97-6470 affirmed and No. 97-525 petition denied by unpublished per curiam opinion.

Charles Alonzo Tunstall, Appellant Pro Se. Tyrus Vance Dahl, Jr., Jack Michael Strauch, WOMBLE, CARLYLE, SANDRIDGE & RICE, Winston-Salem, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Charles Alonzo Tunstall appeals the district court's order entering judgment as a matter of law in accordance with Fed. R. Civ. P. 50 as to Defendants Watson, Wilson, Richardson, and Jordan and ordering that Tunstall recover nothing of the remaining Defendants Somerville, Ellis, and Brant, in accordance with the jury verdict. Tunstall also appeals the district court order denying his motion for production of the trial transcript at government expense. In addition, Tunstall filed a petition for writ of mandamus in this court requesting that we direct the district court to order production of the transcript at government expense. The record does not contain a transcript of the trial proceedings. Appellant has the burden of including in the record on appeal a transcript of all parts of the proceedings material to the issues raised on appeal. Fed. R. App. P. 10(b)(2); 4th Cir. Local R. 10(c). Appellants proceeding on appeal in forma pauperis are entitled to transcripts at government expense only in certain circumstances. We find that Appellant has failed to present a substantial question, therefore he is not entitled to a transcript. 28 U.S.C. § 753(f) (1994). By failing to produce a transcript or to qualify for the production of a transcript at government expense, Appellant has waived review of the issues on appeal which depend upon the transcript to show error. Powell v. Estelle, 959 F.2d 22, 26 (5th Cir.), cert. denied, 506 U.S. 1025 (1992); Keller v. Prince George's Co., 827 F.2d 952, 954 n.1 (4th Cir. 1987). We have reviewed the record before the court and find no reversible error. We therefore affirm the dis-

trict court's orders and deny Tunstall's petition for a writ of mandamus. We deny Tunstall's motions for appointment of counsel, "Request for An (sic) Court Order of Investigation," "Motion for an order for a Subpoena (sic) of All Medical Records Decues (sic) Tecum," and for preparation of a transcript at government expense. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

Nos. 96-7333, 97-6470 - AFFIRMED

No. 97-525 - PETITION DENIED